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August 10, 2023

VIA ECF

Honorable Nina R. Morrison
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Rare Breed Triggers, LLC, et al.*
Civil Action No. 1:23-cv-00369-NRM-RML

Dear Judge Morrison:

This firm represents Defendants in the captioned matter. We write in furtherance of the conference the Court held yesterday regarding potentially consolidating the preliminary injunction hearing held last week with a trial on the merits pursuant to Fed. R. Civ. P. 65(a)(2).

Defendants would consent to consolidating the hearing with a trial on the merits in late fall/early Winter. Defendants believe this schedule would enable the parties to complete whatever remaining discovery remains while also saving the parties the time and resources of holding another full-blown trial. With additional discovery and testimony, as necessary, the parties will not be prejudiced. In the meantime, Defendants would consent to maintaining the *status quo* until the Court renders a final decision, and would consent to a bench trial.

The Court's August 9, 2023 order directed the parties to "confer and inform the Court by the end of the week whether [the parties] consent to proceeding" in a consolidated manner. (ECF Minute Entry and Order Aug. 9, 2023.) The parties conferred this afternoon but were unable to come to an agreement. The letter submitted by the Government moments ago reflects this. (ECF No. 121.) Earlier in yesterday's conference, however, the Court indicated that it could possibly order consolidation under Rule 65 without the parties' consent. The Court's reasoning for not acting under Rule 65 would be Defendants' jury trial demand, which Defendants are willing to forgo in the event of consolidation. Defendants therefore believe this letter provides information that could be useful to the Court in deciding whether to consolidate under Rule 65(a)(2).

We thank the Court for considering this letter.

Respectfully submitted,

/s/ Michael A. Columbo
Michael A. Columbo

cc: All Counsel of Record (via ECF)